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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,907	01/29/2004	Yoshiaki Kubo	KUBO2	2610

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BROWDY AND NEIMARK, P.L.L.C.
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EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/765,907	Applicant(s) KUBO, YOSHIKI	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5 is/are rejected.
- 7) ☒ Claim(s) 4 and 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>04/29/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: "inverted L" shape (line 4) should read --inverted L shape--. Appropriate correction is required.

Claims 1-6 use a "means" clause to recite a claim element as a means for performing a specified function. However, it is unclear whether the applicant is invoking 35 U.S.C. 112, 6th paragraph in using the word "means" in claims 1-6. Because "means" has a distinct meaning within the U.S. Patent system and patent law in accordance with 35 U.S.C. 112, 6th paragraph ("means plus function"), the applicant should delete or substitute another phrase for "headrest stay means", "biasing means", and "another biasing means", as this reference seems unintended in this case. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 3636

3. Claims 1 and 5 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,779,839 B2 to Andreasson et al.

Andreasson et al. disclose a headrest in combination with a seat that includes all the limitations recited in claims 1 and 5. Andreasson et al. show a headrest in combination with a seat having a headrest body of an inverted L shape in section (see Fig. 1) which has a horizontal top portion 22 and a vertical support portion 24 extending vertically from the horizontal top portion wherein the vertical support portion is rotatably connected with the horizontal top portion so as to be swingable relative thereto in forward and backward directions of the seat, a headrest stay 26 vertically extending from the horizontal top portion of the headrest body and slidably inserted through a top of a seat back 10, a resilient bias 50 (Fig. 5) that biases the vertical support portion in the forward direction, and a stopper 52 (Fig. 3) that limits rotation of the vertical support portion in the forward and backward directions wherein the horizontal top portion contacts the top of the seat back when the headrest body is moved downwardly to the seat back while the vertical support portion contacts on and along the upper region of a forward surface of the seat back (see Fig. 3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3636

5. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andreasson et al. in view of U.S. Patent No. 6,557,933 B1 to Schambre et al.

Andreasson et al. disclose a headrest in combination with a seat that is basically the same as that recited in claims 2 and 3 except that the headrest stay lacks another bias, as recited in the claims. The headrest body of Andreasson et al. is adapted to support head, shoulder, and back portions of an occupant. Schambre et al. show a headrest similar to that of Andreasson et al. wherein the headrest has a headrest body 22 (see Fig. 1), a headrest stay 24, a bias 27 in a seat back 12 that upwardly biases the headrest stay such that the headrest body is resiliently retained at a predetermined position. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the headrest in combination with a seat of Andreasson et al. such that the headrest stay is normally biased upwardly by another bias provided in the seat back such that the headrest body is resiliently retained at a predetermined position, such as the headrest in combination with a seat disclosed in Schambre et al.

Allowable Subject Matter

6. Claims 4 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Art Unit: 3636

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to headrest in combination with a seat:

U.S. Pat. No. 2,652,101 to Samsky et al. U.S. Pat. No. 2,984,293 to Bontempi et al.

U.S. Pat. No. 3,065,029 to Spound et al. U.S. Pat. No. 4,082,354 to Renner et al.

U.S. Pat. No. 5,641,202 to Rus U.S. Pat. No. 5,681,079 to Robinson


U.S. Pat. No. 5,826,942 to Sutton et al. U.S. Pat. No. 5,918,940 to Wakamatsu et al.

U.S. Pat. No. 6,193,317 B1 to Mitschelen et al.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JE
July 10, 2005


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600